

Arkansas Development Finance Authority

2009 Guidelines for Reserving Volume Cap for Tax-Exempt Private Activity Bonds for Residential Rental Housing

**Adopted by the Board of Directors
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I. INTRODUCTION.

The Arkansas Development Finance Authority (“ADFA”) has as one of its primary purposes the creation and preservation of affordable, rental housing for low and moderate income persons. ADFA has available volume cap for reservation in the issuance of tax-exempt bond authority to provide financing to private developers for the development of multi-family, rental housing. In return for receiving below market interest rate financing, the developer is required to set aside units in the development for low and moderate income families and persons. The reservation of volume cap in the tax-exempt bond multi-family housing program is intended to encourage the creation of new rental housing units as well as the rehabilitation of existing rental units.

II. USE OF VOLUME CAP.

Any volume cap reserved for the issuance of tax-exempt private activity bonds pursuant to this program must be used to provide permanent financing for the development. The authority is not intended for short-term escrow financing, construction financing or any other financing, which is not permanent financing for the development. All units must be rental units and be “complete” units.

III. FEDERAL TAX REGULATIONS AND REQUIREMENTS.

The applicant is responsible for understanding and following all applicable tax law requirements for the proposed development.

IV. CONTINUOUS FUNDING ROUND.

Pursuant to Ark. Code Ann. §15-5-603, approximately \$26,209,000 in volume cap will be available for reservation through ADFA and approximately \$78,628,500 will be available for allocation to any issuer authorized to issue tax-exempt private activity bonds for the development of multi-family residential rental housing.

V. RECEIPT OF APPLICATION.

Application for 2009 Multifamily Volume Cap requires compliance with:

1. The Arkansas Development Finance Authority Rules and Regulations Implementing the Law on the Allocation of the State Volume Cap for Private Activity Bonds Pursuant to Act 1044 of 2001 (“Volume Cap Rules and Regulations”) in effect at the time an application is filed;
2. These 2009 Guidelines for Reserving Volume Cap for Tax-Exempt Private Activity Bonds for Residential Rental Housing ("2009 Bond Guidelines for Residential Rental Housing"); and

3. The Housing Credit Program 2009 Qualified Allocation Plan (“QAP”). Applicants applying to reserve volume cap for tax-exempt bonds must utilize the four percent (4%) low-income housing tax credits. ADFA retains the authority to determine eligibility to receive tax credits and the amount of tax credits to be awarded to the development.

Each applicant must complete an "Application for Reservation of Volume Cap", (see Appendix A-1 to the Volume Cap Rules and Regulations) and a 2009 Multi-Family Housing Application. Only complete applications will be considered for funding. Facsimiles and e-mails will not be accepted. The 2009 Multi-Family Housing Application must be submitted online as provided by ADFA and by submitting a tabbed, 3-ring bound hardcopy delivered to ADFA at the following address:

**ARKANSAS DEVELOPMENT FINANCE AUTHORITY
Attn: Multi-Family Housing Department
423 Main Street, Suite 500
Little Rock, AR 72201
Telephone Number: 501-682-5900**

Following assignment of a Priority Number pursuant to Section 3.4 of the Volume Cap Rules and Regulations, the applicant will be notified of the date and time the applicant will be required to make a formal presentation of its development for approval to the Board Housing Review Committee.

VI. FEES.

- A. **APPLICATION FEE.** A Five Hundred Dollar (\$500) non-refundable application fee is payable at the time an application is submitted to ADFA. Applications submitted without the application fee will be considered incomplete.
- B. **ISSUANCE FEE (ADFA ISSUES ONLY).** A one-time fee of 0.15%, based on the principal amount of bonds issued, is payable at the bond closing.
- C. **LOW-INCOME HOUSING TAX CREDITS (“LIHTC”) FEES.**
 1. **RESERVATION OF CREDIT FEE.** A non-refundable reservation fee of One Hundred Dollars (\$100) per low-income unit will be required at the bond closing.
 2. **AWARD OF CREDIT FEE.** An award of credit fee of One Hundred Dollars (\$100) per low-income unit will be required at the time the credits are awarded (at issuance of IRS Form 8609).

3. **COMPLIANCE/MONITORING FEE.** A compliance and monitoring fee of eight percent (8%) of the amount of annual credits is required to be paid at the time the credits are awarded (at issuance of IRS Form 8609). Overpayments will not be refunded.

VII. APPRAISAL FEE, MARKET STUDY, ETC.

The Applicant will be responsible for paying all costs incurred in providing ADFA with a market study, appraisal, construction cost analysis certification or any other special study in the event such special study is required by ADFA. The market study must be performed by a market analyst from the ADFA Approved Market Study Firm List. The market study must contain all information outlined in the Market Study Guidelines for ADFA Housing Programs. Any market study not meeting these requirements will not meet program threshold requirements for funding. The Capital Needs Assessment, if applicable, must be performed by a capital needs assessment firm from ADFA's Capital Needs Assessment Firm – Approved list.

VIII. ISSUANCE EXPENSES AND ALL OTHER EXPENSES INCURRED.

The Applicant will be responsible for any expenses incurred regardless of whether or not a bond closing occurs. The Applicant is also responsible for such expenses incurred in the arbitrage rebate calculation.

IX. REVIEW OF APPLICATION AND APPROVAL PROCESS.

A. NOTIFICATION.

Notification, via ADFA's website at www.arkansas.gov/adfa, will be sent to all developers and affordable housing professionals advising them of the availability of volume cap and the process for submission of applications.

B. SUBMISSION OF APPLICATION.

The Applicant, developer or its representative shall submit a completed 2009 Multi-Family Housing Application, including all required documentation and exhibits with the application fee to ADFA.

C. REVIEW OF APPLICATION.

Applications are reviewed by ADFA's Multi-Family Housing Staff for completeness and compliance with all requirements of these 2009 Bond Guidelines for Residential Rental Housing and the QAP. Pursuant to Section 42(m)(1)(D) of the Internal Revenue Code, the application will be evaluated for compliance with the THRESHOLD REQUIREMENTS set forth in Section VI.B. of the QAP and the ADDITIONAL

REQUIREMENTS FOR A COMPLETE APPLICATION set forth in Section VI.C. of the QAP. ADFA's Multi-Family Housing staff will conduct a review of the Applicant's previous performance related to ADFA and other programs. The Applicant's performance under the Bond Program to close previous bond transactions within the program requirements will be reviewed and could impact the funding decision. In addition, unsatisfactory performance, as determined by the Board Housing Review Committee on previous developments, or delinquencies in payments will result in disqualification of an application by the ADFA Board Housing Review Committee. All information submitted to ADFA along with ADFA staff findings and notes may be shared with any issuing entity to assist the issuing entity with funding decisions.

D. COVENANT TO EXECUTE CERTIFICATE OF BOND PROCEEDS EXPENDITURE.

With its application, the applicant must covenant that the borrower/user of the bond proceeds will, by the earlier of:

1. Within six months after the date on which the development is to be placed in service, or
2. At the time of submission of the development's cost certification for the issuance of IRS Form 8609

execute and submit to ADFA a certificate that designates the manner in which the proceeds of the bonds were applied to expenditures.

FURTHER, at bond issuance/closing, the **BORROWER/USER** will execute a separate document/letter declaring the above covenant. Such document/letter will be included with all other bond closing documentation.

E. EXTENSIONS OF THE CLOSING DATE.

The bond closing must take place prior to the expiration of the "Reservation Period", as extended, as provided for in Section 5 of the Volume Cap Rules and Regulations.

F. CREDIT ENHANCEMENT OR PRIVATE PLACEMENT (ADFA ISSUES ONLY).

All multi-family transactions must be either Credit Enhanced or placed with a bank, registered investment company, insurance company or "Accredited Investors", as defined in Rule 501 of Regulation D of the U.S. Securities and Exchange Commission, ("Qualified Investors") who are willing to sign Investor Letters stating their qualifications to analyze and gauge risk relating to their investment in such issues. The minimum rating requirement for Credit Enhancement to be eligible for multi-family Bond Issues would be "A" or better by Moodys Investor Service or "A" or better by Standard and Poor's at the time of closing.

Bonds issued and placed with "Accredited Investors," as defined above, would be issued in initial minimum denominations of \$100,000 or any integral multiples of \$5,000 in excess thereof.

G. FORMAL PRESENTATION BEFORE BOARD HOUSING REVIEW COMMITTEE.

All applicants will be required to make a formal presentation before ADFA's Board Housing Review Committee. Applicants will be notified by ADFA staff of the schedule for making the formal presentation. The presentation shall include, but is not limited to, discussion of the following:

1. Demonstrated demand for affordable housing in the proposed project locale;
2. Project location;
3. Project size;
4. Unit types and bedroom mix;
5. Projected market and low-income unit mix;
6. Tenants to be served;
7. Proposed financing structure;
8. Readiness to close bond transaction within sixty (60) days;
9. Zoning and site plan approval status;
10. Background and experience of developer and development team;
11. Community support;
12. Energy efficiency/maintenance standards;
13. Detailed synopsis of rehabilitation work, if applicable;
14. Monitoring procedures; and
15. Serving special needs, e.g., elderly housing, housing for persons with physical disabilities; housing for large families.

H. DECISION OF BOARD HOUSING REVIEW COMMITTEE.

The Board Housing Review Committee will make its recommendation of selected applications to the Board of Directors. The Board of Directors will approve selected applications at a regular Board meeting.

I. CHANGES TO THE ORIGINAL APPLICATION.

Any change to the original application must be submitted to ADFA in writing at least thirty (30) days prior to the desired effective date of the change. All changes must be reviewed and approved by ADFA's Multi-Family Housing Staff or ADFA's Board of Directors. Any change to the original application made without approval from ADFA will be null and void.

J. RESERVATION OF VOLUME CAP BY ADFA.

All reservations of volume cap made by ADFA will be made for the purpose of providing bond financing for a specific development on a specific site. Any change in the development site, the applicant entity, the ownership entity or the size, nature or other characteristics of the development may, in ADFA's sole discretion, invalidate the reservation. The applicant is obligated to report any changes to ADFA. Should the highest elected official withdraw the letter of support for the development at any time prior to the bond closing, ADFA will invalidate the reservation for volume cap. Revocation of the letter of support at any time after the bond closing will not affect the reservation for volume cap.

X. CRIMINAL BACKGROUND CHECK and DISCLOSURE REQUIREMENTS.

Each applicant, consultant, and development team member shall complete a Criminal Background and Disclosure Form – Housing, Attachment A to the 2009 Multi-Family Housing Application. Failure to submit, or correctly complete, the Criminal Background and Disclosure Form – Housing for each applicant, consultant, and development team member shall disqualify the application for tax-exempt bonds.

Each applicant or recipient of tax-exempt bonds, and any principal of such applicant or recipient, is subject to ADFA's Criminal Background Check Policies and Procedures and their requirements. Each consultant, developer, or other development team member or any principal of such consultant, developer, or other development team, is subject to ADFA's Criminal Background Check Policies and Procedures and their requirements.

XI. CERTIFICATION.

ADFA reserves the right to disapprove any development for a reservation of volume cap, regardless of the evaluation. ADFA reserves the right, in its sole and absolute discretion, to suspend or debar any applicant from the volume cap program which ADFA determines has acted improperly, illegally or inappropriately in the applicant's dealings with the Authority or in any way relative to the program. No contact with ADFA board members is allowed and any such contact will be grounds for immediate rejection of the application.

Adopted by the Board of Directors of the Arkansas Development Finance Authority this 17th day of July 2008.

By: _____
Art Morris, Chair Person

ATTEST:

Mac Dodson, President/Secretary